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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/763,569

01/23/2004

Hosheng Tu

GLAUKO.046A

4882

20995 7590 02/22/2007  
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EXAMINER

MATTHEWS, WILLIAM H

ART UNIT

PAPER NUMBER

3738

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
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3 MONTHS

02/22/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/22/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

Application No.

10/763,569

Applicant(s)

TU, HOSHENG

Examiner

William H. Matthews (Howie)

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified-copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2-24-04.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Group I and Species A in the reply filed on 2-5-07 is acknowledged.
2. Claims 6,7 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2-5-07.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1,3,5 are rejected under 35 U.S.C. 102(e) as being anticipated by Huang US PN 6,727,354.

Huang disclose in column 6, lines 38-46 a method of minimizing blood reflux from an episcleral vein during eye surgery comprising implanting a glaucoma implant, administering a vasoconstrictive alpha antagonist agent, and administering a second agent (such as miotics).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang US PN 6,727,354 as applied to claims 1,3,5 above, and further in view of Hill US PN 6,533,768.

Huang meets the limitations of claims 2 and 10 as described above but fails to expressly disclose implanting the device (shunt) from the anterior chamber through trabecular meshwork toward schlemm's canal. Hill disclose figure 6 and column 6, lines 46-65 and column 8, lines 42-51 a method of implanting a shunt through the trabecular meshwork towards schelmm's canal.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method disclosed by Huang to include the step of implanting the shunt through the trabecular meshwork towards schelmm's canal, as taught by Hill, in order to properly allow the aqueous to drain.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huang US PN 6,727,354 as applied to claims 1,3,5 above, and further in view of Tatton US PUB 2005/0228054.

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Huang meets the limitations of claim 4 as described above but fails to expressly disclose topical administration of the vasoconstrictive agent. Tatton teach in paragraph [0003] topical administration of vasoconstrictive agents in order to treat glaucoma.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method disclosed by Huang to include the step of topical administration of vasoconstrictive agents, as taught by Tatton, in order to treat glaucoma.

8. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang US PN 6,727,354 as applied to claims 1,3,5 above, and further in view of Schwartz et al. US PN 6,555,582.

Huang meets the limitations of claims 8 and 9 as described above but fails to expressly disclose the vasoconstrictive agent contained in a eye solution at a concentration of 0.01-2% weight and pH between 4-8. Schwartz et al. teach in lines 51 of col. 17 through line 3 of col. 18 glaucoma treatment eye solutions comprising therapeutic drugs at 0.01-2% weight concentration and pH of 4-8 in order to treat glaucoma without damaging the eye.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method disclosed by Huang to include the step of using eye solutions comprising therapeutic drugs at 0.01-2% weight concentration and pH of 4-8, as taught by Schwartz et al., in order to treat glaucoma without damaging the eye.

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### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Matthews (Howie) whose telephone number is 571-272-4753. The examiner can normally be reached on Monday-Friday 10-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M. McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



William H. Matthews (Howie)  
Examiner  
Art Unit 3738